

# Senate Amendment 3282

PAG LIN

1 1 Amend House File 882, as amended, passed, and  
1 2 reprinted by the House, as follows:  
1 3 #1. Page 48, by inserting after line 26 the  
1 4 following:  
1 5 <DIVISION \_\_\_\_  
1 6 RENEWABLE ENERGY GENERATION AND TAX CREDITS  
1 7 Sec. \_\_\_\_\_. Section 422.11J, Code 2005, is amended  
1 8 to read as follows:  
1 9 422.11J ~~WIND ENERGY PRODUCTION TAX CREDIT CREDITS~~  
1 10 FOR WIND ENERGY PRODUCTION AND RENEWABLE ENERGY.  
1 11 The taxes imposed under this division, less the  
1 12 credits allowed under sections 422.12 and 422.12B,  
1 13 shall be reduced by ~~a wind energy production tax~~  
1 14 ~~credit credits for wind energy production~~ allowed  
1 15 under chapter 476B and for renewable energy allowed  
1 16 under chapter 476C.  
1 17 Sec. \_\_\_\_\_. Section 422.33, subsection 16, Code  
1 18 2005, is amended to read as follows:  
1 19 16. The taxes imposed under this division shall be  
1 20 reduced by ~~a wind energy production tax credit credits~~  
1 21 for wind energy production allowed under chapter 476B  
1 22 and for renewable energy allowed under chapter 476C.  
1 23 Sec. \_\_\_\_\_. Section 422.60, subsection 8, Code 2005,  
1 24 is amended to read as follows:  
1 25 8. The taxes imposed under this division shall be  
1 26 reduced by ~~a wind energy production tax credit credits~~  
1 27 for wind energy production allowed under chapter 476B  
1 28 and for renewable energy allowed under chapter 476C.  
1 29 Sec. \_\_\_\_\_. Section 423.4, Code 2005, is amended by  
1 30 adding the following new subsection:  
1 31 NEW SUBSECTION. 4. A person in possession of a  
1 32 renewable energy tax credit certificate issued  
1 33 pursuant to chapter 476C may apply to the director for  
1 34 refund of the amount of sales or use tax imposed and  
1 35 paid upon purchases made by the applicant.  
1 36 a. The refunds may be obtained only in the  
1 37 following manner and under the following conditions:  
1 38 (1) On forms furnished by the department and filed  
1 39 by January 31 after the end of the calendar year in  
1 40 which the tax credit certificate is to be applied, the  
1 41 applicant shall report to the department the total  
1 42 amount of sales and use tax paid during the reporting  
1 43 period on purchases made by the applicant.  
1 44 (2) The applicant shall separately list the  
1 45 amounts of sales and use tax paid during the reporting  
1 46 period.  
1 47 (3) If required by the department, the applicant  
1 48 shall prove that the person making the sales has  
1 49 included the amount thereof in the computation of the  
1 50 sales price of such person and that such person has  
2 1 paid the tax levied by this subchapter or subchapter  
2 2 III, based upon such computation of the sales price.  
2 3 (4) The applicant shall provide the tax credit  
2 4 certificates issued pursuant to chapter 476C to the  
2 5 department with the forms required by this paragraph  
2 6 "a".  
2 7 b. If satisfied that the foregoing conditions and  
2 8 requirements have been complied with, the director  
2 9 shall refund the amount claimed by the applicant for  
2 10 an amount not greater than the amount of tax credits  
2 11 issued in tax credit certificates pursuant to chapter  
2 12 476C.  
2 13 Sec. \_\_\_\_\_. Section 432.12E, Code 2005, is amended  
2 14 to read as follows:  
2 15 432.12E ~~WIND ENERGY PRODUCTION TAX CREDIT CREDITS~~  
2 16 FOR WIND ENERGY PRODUCTION AND RENEWABLE ENERGY.  
2 17 The taxes imposed under this chapter shall be  
2 18 reduced by ~~a wind energy production tax credit credits~~  
2 19 for wind energy production allowed under chapter 476B  
2 20 and for renewable energy allowed under chapter 476C.  
2 21 Sec. \_\_\_\_\_. NEW SECTION. 437A.17B REIMBURSEMENT  
2 22 FOR RENEWABLE ENERGY.  
2 23 A person in possession of a renewable energy tax  
2 24 credit certificate issued pursuant to chapter 476C may

2 25 apply to the director for a reimbursement of the  
2 26 amount of taxes imposed and paid by the person  
2 27 pursuant to this chapter in an amount not more than  
2 28 the person received in renewable energy tax credit  
2 29 certificates pursuant to chapter 476C. To obtain the  
2 30 reimbursement, the person shall attach to the return  
2 31 required under section 437A.8 the renewable energy tax  
2 32 credit certificates issued to the person pursuant to  
2 33 chapter 476C, and provide any other information the  
2 34 director may require. The director shall direct a  
2 35 warrant to be issued to the person for an amount equal  
2 36 to the tax imposed and paid by the person pursuant to  
2 37 this chapter but for not more than the amount of the  
2 38 renewable energy tax credit certificates attached to  
2 39 the return.

2 40 Sec. \_\_\_\_\_. NEW SECTION. 476C.1 DEFINITIONS.

2 41 For purposes of this chapter, unless the context  
2 42 otherwise requires:

2 43 1. "Anaerobic digester system" means a system of  
2 44 components that processes plant or animal materials  
2 45 based on the absence of oxygen and produces methane or  
2 46 other biogas used to generate electricity, hydrogen  
2 47 fuel, or heat for a commercial purpose.

2 48 2. "Biogas recovery facility" means an anaerobic  
2 49 digester system that is located in this state.

2 50 3. "Biomass conversion facility" means a facility  
3 1 in this state that converts plant-derived organic  
3 2 matter including, but not limited to, agricultural  
3 3 food and feed crops, crop wastes and residues, wood  
3 4 wastes and residues, or aquatic plants to generate  
3 5 electricity, hydrogen fuel, or heat for a commercial  
3 6 purpose.

3 7 4. "Board" means the utilities board within the  
3 8 utilities division of the department of commerce.

3 9 5. "Department" means the department of revenue.

3 10 6. "Eligible renewable energy facility" means a  
3 11 wind energy conversion facility, a biogas recovery  
3 12 facility, a biomass conversion facility, a methane gas  
3 13 recovery facility, or a solar energy conversion  
3 14 facility that meets all of the following requirements:

3 15 a. Is located in this state.

3 16 b. Is at least fifty-one percent owned by one or  
3 17 more of any combination of the following:

3 18 (1) A resident of this state.

3 19 (2) Any of the following as defined in section

3 20 9H.1:

3 21 (a) An authorized farm corporation.

3 22 (b) An authorized limited liability company.

3 23 (c) An authorized trust.

3 24 (d) A family farm corporation.

3 25 (e) A family farm limited liability company.

3 26 (f) A family trust.

3 27 (g) A revocable trust.

3 28 (h) A testamentary trust.

3 29 (3) A small business as defined in section 15.102.

3 30 (4) An electric cooperative association organized  
3 31 pursuant to chapter 499 that sells electricity to end  
3 32 users located in this state.

3 33 (5) An electric cooperative association that has  
3 34 one or more members organized pursuant to chapter 499.

3 35 (6) A cooperative corporation organized pursuant  
3 36 to chapter 497 or a limited liability corporation  
3 37 organized pursuant to chapter 490A whose shares and  
3 38 membership are held by an entity that is not  
3 39 prohibited from owning agricultural land under chapter  
3 40 9H.

3 41 (7) A school district located in this state.

3 42 c. Has at least one owner that meets the  
3 43 requirements of paragraph "b" for each two and one=  
3 44 half megawatts of nameplate generating capacity or the  
3 45 energy production capacity equivalent for hydrogen  
3 46 fuel or heat for a commercial purpose of the otherwise  
3 47 eligible renewable energy facility.

3 48 d. Was initially placed into service on or after  
3 49 July 1, 2005, and before January 1, 2011, or on or  
3 50 after February 1, 2005, and before January 1, 2011, if  
4 1 the facility meets the requirements of subsection 6,  
4 2 paragraph "b", subparagraph (7).

4 3 7. "Energy production capacity equivalent" means  
4 4 the amount of energy in a standard cubic foot of  
4 5 hydrogen gas or the number of British thermal units

4 6 that are equal to the energy in a kilowatt=hour of  
4 7 electricity. For the purposes of this chapter, one  
4 8 kilowatt=hour shall be deemed equivalent to three  
4 9 thousand three hundred thirty=three British thermal  
4 10 units of heat or ten and forty=five one hundredths of  
4 11 standard cubic feet of hydrogen gas.

4 12 8. "Heat for a commercial purpose" means the heat  
4 13 in British thermal unit equivalents from methane or  
4 14 other biogas produced in this state sold to a  
4 15 purchaser of renewable energy for use for a commercial  
4 16 purpose.

4 17 9. "Hydrogen fuel" means hydrogen produced in this  
4 18 state from a renewable source that is used in a fuel  
4 19 cell or hydrogen=powered internal combustion engine.

4 20 10. "Methane gas recovery facility" means a  
4 21 facility in this state which is used in connection  
4 22 with a sanitary landfill or which uses wastes that  
4 23 would otherwise be deposited in a sanitary landfill,  
4 24 that collects methane gas or other gases and converts  
4 25 the gas into energy to generate electricity, hydrogen  
4 26 fuel, or heat for a commercial purpose.

4 27 11. "Producer of renewable energy" means a person  
4 28 who owns an eligible renewable energy facility.

4 29 12. "Purchaser of renewable energy" means a person  
4 30 who buys electric energy, hydrogen fuel, methane gas  
4 31 or other biogas used to generate electricity, or heat  
4 32 for a commercial purpose from an eligible renewable  
4 33 energy facility.

4 34 13. "Solar energy conversion facility" means a  
4 35 solar energy facility in this state that collects and  
4 36 converts incident solar radiation into energy to  
4 37 generate electricity.

4 38 14. "Wind energy conversion facility" means a wind  
4 39 energy conversion system in this state that collects  
4 40 and converts wind into energy to generate electricity.

4 41 Sec. \_\_\_\_\_. NEW SECTION. 476C.2 TAX CREDIT AMOUNT  
4 42 == LIMITATIONS.

4 43 1. A producer or purchaser of renewable energy may  
4 44 receive renewable energy tax credits under this  
4 45 chapter in an amount equal to one and one-half cents  
4 46 per kilowatt=hour of electricity, or four dollars and  
4 47 fifty cents per million British thermal units of heat  
4 48 for a commercial purpose, or four dollars and fifty  
4 49 cents per million British thermal units of methane gas  
4 50 or other biogas used to generate electricity, or one  
5 1 dollar and forty=four cents per one thousand standard  
5 2 cubic feet of hydrogen fuel generated by and purchased  
5 3 from an eligible renewable energy facility.

5 4 2. The renewable energy tax credit shall not be  
5 5 allowed for any kilowatt=hour of electricity, British  
5 6 thermal unit of heat for a commercial purpose, British  
5 7 thermal unit of methane gas or other biogas used to  
5 8 generate electricity, or standard cubic foot of  
5 9 hydrogen fuel that is purchased from an eligible  
5 10 renewable energy facility by a related person. For  
5 11 purposes of this subsection, persons shall be treated  
5 12 as related to each other if either person owns an  
5 13 eighty percent or more equity interest in the other  
5 14 person.

5 15 Sec. \_\_\_\_\_. NEW SECTION. 476C.3 DETERMINATION OF  
5 16 ELIGIBILITY.

5 17 1. A producer or purchaser of renewable energy may  
5 18 apply to the board for a written determination  
5 19 regarding whether a facility is an eligible renewable  
5 20 energy facility by submitting to the board a written  
5 21 application containing all of the following:

5 22 a. Information regarding the ownership of the  
5 23 facility including the percentage of equity interest  
5 24 held by each owner.

5 25 b. The nameplate generating capacity of the  
5 26 facility or energy production capacity equivalent.

5 27 c. Information regarding the facility's initial  
5 28 placement in service.

5 29 d. Information regarding the type of facility and  
5 30 what type of renewable energy the facility will  
5 31 produce.

5 32 e. A copy of the power purchase agreement or other  
5 33 agreement to purchase electricity, hydrogen fuel,  
5 34 methane or other biogas, or heat for a commercial  
5 35 purpose which shall designate either the producer or  
5 36 purchaser of renewable energy as eligible to apply for

5 37 the renewable energy tax credit.  
5 38 f. Any other information the board may require.  
5 39 2. The board shall review the application and  
5 40 supporting information and shall make a preliminary  
5 41 determination regarding whether the facility is an  
5 42 eligible renewable energy facility. The board shall  
5 43 notify the applicant of the approval or denial of the  
5 44 application within thirty days of receipt of the  
5 45 application and information required. If the board  
5 46 fails to notify the applicant of the approval or  
5 47 denial within thirty days, the application shall be  
5 48 deemed denied. An applicant who receives a  
5 49 determination denying an application may file an  
5 50 appeal with the board within thirty days from the date  
6 1 of the denial pursuant to the provisions of chapter  
6 2 17A. In the absence of a timely appeal, the  
6 3 preliminary determination shall be final. If the  
6 4 application is incomplete, the board may grant an  
6 5 extension of time for the provision of additional  
6 6 information.  
6 7 3. A facility that is not operational within  
6 8 eighteen months after issuance of an approval for the  
6 9 facility by the board shall cease to be an eligible  
6 10 renewable energy facility. A facility that is granted  
6 11 and thereafter loses approval may reapply to the board  
6 12 for a new determination.  
6 13 4. The maximum amount of nameplate generating  
6 14 capacity of all wind energy conversion facilities the  
6 15 board may find eligible under this chapter shall not  
6 16 exceed ninety megawatts of nameplate generating  
6 17 capacity. The maximum amount of energy production  
6 18 capacity equivalent of all other facilities the board  
6 19 may find eligible under this chapter shall not exceed  
6 20 a combined output of ten megawatts of nameplate  
6 21 generating capacity.  
6 22 5. An owner meeting the requirements of section  
6 23 476C.1, subsection 6, paragraph "b" shall not be an  
6 24 owner of more than two eligible renewable energy  
6 25 facilities.  
6 26 Sec. \_\_\_\_\_. NEW SECTION. 476C.4 TAX CREDIT  
6 27 CERTIFICATE PROCEDURE.  
6 28 1. A producer or purchaser of renewable energy may  
6 29 apply to the board for the renewable energy tax credit  
6 30 by submitting to the board all of the following:  
6 31 a. A completed application in a form prescribed by  
6 32 the board.  
6 33 b. A copy of the determination granting approval  
6 34 of the facility as an eligible renewable energy  
6 35 facility by the board.  
6 36 c. A copy of a signed power purchase agreement or  
6 37 other agreement to purchase electricity, hydrogen  
6 38 fuel, methane or other biogas, or heat for a  
6 39 commercial purpose from an eligible renewable energy  
6 40 facility which shall designate either the producer or  
6 41 purchaser of renewable energy as eligible to apply for  
6 42 the renewable energy tax credit.  
6 43 d. Sufficient documentation that the electricity,  
6 44 heat for a commercial purpose, methane gas or other  
6 45 biogas, or hydrogen fuel has been generated by the  
6 46 eligible renewable energy facility and sold to the  
6 47 purchaser of renewable energy.  
6 48 e. Any other information the board deems  
6 49 necessary.  
6 50 2. The board shall notify the department of the  
7 1 amount of kilowatt-hours, British thermal units of  
7 2 heat for a commercial purpose, British thermal units  
7 3 of methane gas or other biogas used to generate  
7 4 electricity, or standard cubic feet of hydrogen fuel  
7 5 generated and purchased from an eligible renewable  
7 6 energy facility. The department shall calculate the  
7 7 amount of the tax credit for which the applicant is  
7 8 eligible and shall issue the tax credit certificate  
7 9 for that amount or notify the applicant in writing of  
7 10 its refusal to do so. An applicant whose application  
7 11 is denied may file an appeal with the department  
7 12 within sixty days from the date of the denial pursuant  
7 13 to the provisions of chapter 17A.  
7 14 3. Each tax credit certificate shall contain the  
7 15 person's name, address, and tax identification number,  
7 16 the amount of tax credits, the first taxable year the  
7 17 certificate may be used, the type of tax to which the

7 18 tax credits shall be applied, and any other  
7 19 information required by the department. The tax  
7 20 credit certificate shall only list one type of tax to  
7 21 which the amount of the tax credit may be applied.  
7 22 Once issued by the department, the tax credit  
7 23 certificate shall not be terminated or rescinded.

7 24 4. If the tax credit application is filed by a  
7 25 partnership, limited liability company, S corporation,  
7 26 estate, trust, or other reporting entity all of the  
7 27 income of which is taxed directly to its equity  
7 28 holders or beneficiaries, for the taxes imposed under  
7 29 chapter 422, division II or III, the tax credit  
7 30 certificate shall be issued directly to equity holders  
7 31 or beneficiaries of the applicant in proportion to  
7 32 their pro rata share of the income of such entity.  
7 33 The applicant shall, in the application made under  
7 34 this section, identify its equity holders or  
7 35 beneficiaries, and the percentage of such entity's  
7 36 income that is allocable to each equity holder or  
7 37 beneficiary. If the tax credit application is filed  
7 38 by a partnership, limited liability company, S  
7 39 corporation, estate, trust, or other reporting entity,  
7 40 all of whose income is taxed directly to its equity  
7 41 holders or beneficiaries for the taxes imposed under  
7 42 chapter 422, division V, or under chapter 423, 432, or  
7 43 437A, the tax credit certificate shall be issued  
7 44 directly to the partnership, limited liability  
7 45 company, S corporation, estate, trust, or other  
7 46 reporting entity.

7 47 5. The department shall not issue a tax credit  
7 48 certificate if the facility approved by the board as  
7 49 an eligible renewable energy facility is not  
7 50 operational within eighteen months after the approval  
8 1 is issued.

8 2 6. The department shall not issue a tax credit  
8 3 certificate to any person who has received a tax  
8 4 credit pursuant to chapter 476B.

8 5 7. Once a tax credit certificate is issued  
8 6 pursuant to this section, the tax credit may only be  
8 7 claimed against the type of tax reflected on the  
8 8 certificate.

8 9 Sec. \_\_\_\_\_. NEW SECTION. 476C.5 CERTIFICATE  
8 10 ISSUANCE PERIOD.

8 11 A producer or purchaser of renewable energy may  
8 12 receive renewable energy tax credit certificates for a  
8 13 ten-year period for each eligible renewable energy  
8 14 facility under this chapter. The ten-year period for  
8 15 issuance of the tax credit certificates begins with  
8 16 the date the purchaser of renewable energy first  
8 17 purchases electricity, hydrogen fuel, methane gas or  
8 18 other biogas used to generate electricity, or heat for  
8 19 commercial purposes from the eligible renewable energy  
8 20 facility for which a tax credit is issued under this  
8 21 chapter. Renewable energy tax credit certificates  
8 22 shall not be issued for renewable energy purchased  
8 23 after December 31, 2020.

8 24 Sec. \_\_\_\_\_. NEW SECTION. 476C.6 TRANSFERABILITY  
8 25 AND USE OF TAX CREDIT CERTIFICATES == REGISTRATION.

8 26 1. Renewable energy tax credit certificates issued  
8 27 under this chapter may be transferred to any person.  
8 28 A tax credit certificate shall only be transferred  
8 29 once. However, for purposes of this transfer  
8 30 provision, a decision between a producer and purchaser  
8 31 of renewable energy regarding who claims the tax  
8 32 credit issued pursuant to this chapter shall not be  
8 33 considered a transfer and must be set forth in the  
8 34 application for the tax credit pursuant to section  
8 35 476C.4. Within thirty days of transfer, the  
8 36 transferee must submit the transferred tax credit  
8 37 certificate to the department along with a statement  
8 38 containing the transferee's name, tax identification  
8 39 number, and address, and the denomination that each  
8 40 new certificate is to carry and any other information  
8 41 required by the department. Within thirty days of  
8 42 receiving the transferred tax credit certificate and  
8 43 the transferee's statement, the department shall issue  
8 44 one or more replacement tax credit certificates to the  
8 45 transferee. Each replacement tax credit certificate  
8 46 must contain the information required under section  
8 47 476C.4, subsection 3, and must have the same effective  
8 48 taxable year and the same expiration date that

8 49 appeared in the transferred tax credit certificate.  
8 50 Tax credit certificate amounts of less than the  
9 1 minimum amount established by rule shall not be  
9 2 transferable. A tax credit shall not be claimed by a  
9 3 transferee under this chapter until a replacement tax  
9 4 credit certificate identifying the transferee as the  
9 5 proper holder has been issued. The replacement tax  
9 6 credit certificate may reflect a different type of tax  
9 7 than the type of tax noted on the original tax credit  
9 8 certificate.

9 9 The transferee may use the amount of the tax credit  
9 10 transferred against taxes imposed under chapter 422,  
9 11 divisions II, III, and V, and chapter 432 for any tax  
9 12 year the original transferor could have claimed the  
9 13 tax credit. The transferee may claim a refund under  
9 14 chapter 423 or 437A for any tax year within the time  
9 15 period set forth in section 423.47 or 437A.14 for  
9 16 which the original transferor could have claimed the  
9 17 refund. Any consideration received for the transfer  
9 18 of the tax credit shall not be included as income  
9 19 under chapter 422, divisions II, III, and V. Any  
9 20 consideration paid for the transfer of the tax credit  
9 21 shall not be deducted from income under chapter 422,  
9 22 divisions II, III, and V.

9 23 2. To claim a renewable energy tax credit under  
9 24 this chapter, a taxpayer must attach one or more tax  
9 25 credit certificates to the taxpayer's tax return, or  
9 26 if used against taxes imposed under chapter 423, the  
9 27 taxpayer shall comply with section 423.4, or if used  
9 28 against taxes imposed under chapter 437A, the taxpayer  
9 29 shall comply with section 437A.17B, subsection 4. A  
9 30 tax credit certificate shall not be used or attached  
9 31 to a return filed for a taxable year beginning prior  
9 32 to July 1, 2006. The tax credit certificate or  
9 33 certificates attached to the taxpayer's tax return  
9 34 shall be issued in the taxpayer's name, expire on or  
9 35 after the last day of the taxable year for which the  
9 36 taxpayer is claiming the tax credit, and show a tax  
9 37 credit amount equal to or greater than the tax credit  
9 38 claimed on the taxpayer's tax return. Any tax credit  
9 39 in excess of the taxpayer's tax liability for the  
9 40 taxable year may be credited to the taxpayer's tax  
9 41 liability for the following seven tax years or until  
9 42 the credit is depleted, whichever is earlier. If the  
9 43 tax credit is applied against the taxes imposed under  
9 44 chapter 423 or 437A, any credit in excess of the  
9 45 taxpayer's tax liability is carried over and can be  
9 46 filed with the refund claim for the following seven  
9 47 tax years or until depleted, whichever is earlier.  
9 48 However, the certificate shall not be used to reduce  
9 49 tax liability for a tax period ending after the  
9 50 expiration date of the certificate.

10 1 3. The department shall develop a system for the  
10 2 registration of the renewable energy tax credit  
10 3 certificates issued or transferred under this chapter  
10 4 and a system that permits verification that any tax  
10 5 credit claimed on a tax return is valid and that  
10 6 transfers of the tax credit certificates are made in  
10 7 accordance with the requirements of this chapter. The  
10 8 tax credit certificates issued under this chapter  
10 9 shall not be classified as a security pursuant to  
10 10 chapter 502.

10 11 Sec. \_\_\_\_\_. NEW SECTION. 476C.7 RULES.

10 12 The department and the board may adopt rules  
10 13 pursuant to chapter 17A for the administration and  
10 14 enforcement of this chapter.

10 15 Sec. \_\_\_\_\_. EFFECTIVE DATE. This division of this  
10 16 Act, being deemed of immediate importance, takes  
10 17 effect upon enactment.>

10 18 #2. Title page, line 2, by inserting after the  
10 19 word <fees,> the following: <providing for the  
10 20 generation and purchase of and tax credits for  
10 21 renewable energy,>.

10 22  
10 23  
10 24  
10 25 \_\_\_\_\_  
10 26 JOHN P. KIBBIE

10 27  
10 28  
10 29 \_\_\_\_\_  
10 30 HUBERT M. HOUSER

10 30 HF 882.729 81  
10 31 mg/gg/4619